

## § 34.83

under State law, the holding period begins at the expiration of that redemption period.

### § 34.83 Disposition of real estate.

(a) *Disposition.* A national bank may comply with its obligation to dispose of real estate under 12 U.S.C. 29 in the following ways:

(1) With respect to OREO in general:

(i) By entering into a transaction that is a sale under generally accepted accounting principles;

(ii) By entering into a transaction that involves a loan guaranteed or insured by the United States government or by an agency of the United States government or a loan eligible for purchase by a Federally-sponsored instrumentality that purchases loans; or

(iii) By selling the property pursuant to a land contract or a contract for deed;

(2) With respect to DPC real estate, by retaining the property for its own use as bank premises or by transferring it to a subsidiary or affiliate for use in the business of the subsidiary or affiliate;

(3) With respect to a capitalized or operating lease:

(i) By obtaining an assignment or a coterminal sublease. If a national bank enters into a sublease that is not coterminal, the period during which the master lease must be divested will be suspended for the duration of the sublease, and will begin running again upon termination of the sublease. A national bank holding a lease as OREO may enter into an extension of the lease that would exceed the holding period referred to in § 34.82 if the extension meets the following criteria:

(A) The extension is necessary in order to sublease the master lease;

(B) The national bank, prior to entering into the extension, has a firm commitment from a prospective subtenant to sublease the property; and

(C) The term of the extension is reasonable and does not materially exceed the term of the sublease;

(ii) Should the OCC determine that a bank has entered into a lease, extension of a lease, or a sublease for the purpose of real estate speculation in violation of 12 U.S.C. 29 and this part, the OCC will take appropriate meas-

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ures to address the violation, which may include requiring the bank to take immediate steps to divest the lease or sublease; and

(4) With respect to a transaction that does not qualify as a disposition under paragraphs (a)(1) through (3) of this section, by receiving or accumulating from the purchaser an amount in a down payment, principal and interest payments, and private mortgage insurance totalling at least 10 percent of the sales price, as measured in accordance with generally accepted accounting principles.

(b) *Disposition efforts and documentation.* A national bank shall make diligent and ongoing efforts to dispose of each parcel of OREO, and shall maintain documentation adequate to reflect those efforts.

### § 34.84 Future bank expansion.

A national bank normally should use real estate acquired for future bank expansion within five years. After holding such real estate for one year, the bank shall state, by resolution of the board of directors or an appropriately authorized bank official or subcommittee of the board, definite plans for its use. The resolution or other official action must be available for inspection by national bank examiners.

### § 34.85 Appraisal requirements.

(a) *General.* (1) Upon transfer to OREO, a national bank shall substantiate the parcel's market value by obtaining either:

(i) An appraisal in accordance with subpart C of this part; or

(ii) An appropriate evaluation when the recorded investment amount is equal to or less than the threshold amount in subpart C of this part.

(2) A national bank shall develop a prudent real estate collateral evaluation policy that allows the bank to monitor the value of each parcel of OREO in a manner consistent with prudent banking practice.

(b) *Exception.* If a national bank has a valid appraisal or an appropriate evaluation obtained in connection with a real estate loan and in accordance with subpart C of this part, then the bank need not obtain another appraisal or

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evaluation when it acquires ownership of the property.

(c) *Sales of OREO.* A national bank need not obtain a new appraisal or evaluation when selling OREO if the sale is consummated based on a valid appraisal or an appropriate evaluation.

### § 34.86 Additional expenditures and notification.

(a) *Additional expenditures on OREO.* For OREO that is a development or improvement project, a national bank may make advances to complete the project if the advances:

(1) Are reasonably calculated to reduce any shortfall between the parcel's market value and the bank's recorded investment amount;

(2) Are not made for the purpose of speculation in real estate; and

(3) Are consistent with safe and sound banking practices.

(b) *Notification procedures.* (1) A national bank shall notify the appropriate supervisory office at least 30 days before implementing a development or improvement plan for OREO when the sum of the plan's estimated cost and the bank's current recorded investment amount (including any unpaid prior liens on the property) exceeds 10 percent of the bank's capital and surplus. A national bank need notify the OCC under this paragraph (b)(1) only once. A national bank need not notify the OCC that the bank intends to re-fit an existing building for new tenants or to make normal repairs and incur maintenance costs to protect the value of the collateral.

(2) The required notification must demonstrate that the additional expenditure is consistent with the conditions and limitations in paragraph (a) of this section.

(3) Unless informed otherwise, the bank may implement the proposed plan on the thirty-first day (or sooner, if notified by the OCC) following receipt by the OCC of the bank's notification, subject to any conditions imposed by the OCC.

### § 34.87 Accounting treatment.

A national bank shall account for OREO, and sales of OREO, in accordance with the Instructions for the prep-

aration of the Consolidated Reports of Condition and Income.

## Subpart F—Registration of Residential Mortgage Loan Originators

SOURCE: 75 FR 44684, July 28, 2010, unless otherwise noted.

### § 34.101 Authority, purpose, and scope.

(a) *Authority.* This subpart is issued pursuant to the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, title V of the Housing and Economic Recovery Act of 2008 (S.A.F.E. Act) (Pub. L. 110-289, 122 Stat. 2654, 12 U.S.C. 5101 *et seq.*).

(b) *Purpose.* This subpart implements the S.A.F.E. Act's Federal registration requirement for mortgage loan originators. The S.A.F.E. Act provides that the objectives of this registration include aggregating and improving the flow of information to and between regulators; providing increased accountability and tracking of mortgage loan originators; enhancing consumer protections; supporting anti-fraud measures; and providing consumers with easily accessible information at no charge regarding the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators.

(c) *Scope*—(1) *In general.* This subpart applies to national banks, Federal branches and agencies of foreign banks, their operating subsidiaries (collectively referred to in this subpart as national banks), and their employees who act as mortgage loan originators.

(2) *De minimis exception.* (i) This subpart and the requirements of 12 U.S.C. 5103(a)(1)(A) and (2) of the S.A.F.E. Act do not apply to any employee of a national bank who has never been registered or licensed through the Registry as a mortgage loan originator if during the past 12 months the employee acted as a mortgage loan originator for 5 or fewer residential mortgage loans.

(ii) Prior to engaging in mortgage loan origination activity that exceeds the exception limit in paragraph (c)(2)(i) of this section, a national bank employee must register with the Registry pursuant to this subpart.